

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

ANGELA L. LOVEJOY,

Plaintiff,

v.

CIVIL ACTION NO.: 2:14-18188

**HARTFORD LIFE & ACCIDENT INSURANCE
COMPANY, an insurance company licensed to
do business in the State of West Virginia,**

Defendant.

COMPLAINT

Comes now the plaintiff, Angela Lovejoy, by counsel, Edward G. Atkins and the law office of John R. Mitchell, LC, and brings this Complaint against defendant, Hartford Life & Accident Insurance Company, an insurance company licensed to do business in the State of West Virginia (hereinafter referred to as "the Hartford").

1. This Court has jurisdiction over this Complaint pursuant to 29 USC Section 1132 and 28 USC Section 1331.

2. The Long-Term Disability Plan that is subject to this Complaint is an employee benefit plan as defined by 29 USC Sections 1002 and 1003.

3. The breach, which is the subject of this Complaint, occurred in the State of West Virginia. Venue is proper with this Honorable Court pursuant to 29 USC Section 1132(e)(2).

4. Plaintiff, Angela L. Lovejoy, is a resident of Sod, Lincoln County, West Virginia. Plaintiff is 49 years old.

5. Defendant, the Hartford, is an insurance corporation licensed to do business in the State of West Virginia and is doing business in the State of West Virginia.

6. Plaintiff was employed by the Kanawha County Emergency Ambulance Authority for a number of years.

7. As a benefit of her employment, the plaintiff acquired a Long Term Disability Plan sponsored by the Hartford (hereinafter referred to as the Policy); said Policy is insured and administered through the Hartford.

8. Defendant's duties include determining whether Participant is entitled to Disability benefits.

9. At all times relative to this Complaint, plaintiff was a Participant in the Policy.

10. Totally disabled is defined by the Policy as follows:

Disabled or Disability means either Totally Disabled or Total Disability.

Total Disability or Totally Disabled means that:

1. during the Elimination Period; and
2. for the next 24 month(s), you are prevented by:
 - a) accidental bodily injury;
 - b) sickness;
 - c) Mental Illness;
 - d) Substance Abuse; or
 - e) pregnancy,

from performing the Essential Duties of Your Occupation, and as a result you are earning less than 80% of your Pre-disability Earnings, unless engaged in a program of Rehabilitative Employment approved by us.

After that, you must be so prevented from performing the Essential Duties of Any Occupation for which you are qualified by education, training or experience.

Essential Duty means a duty that:

1. is substantial, not incidental;
2. is fundamental or inherent to the occupation; and
3. can not be reasonably omitted or changed.

Your ability to work the number of hours in Your regularly scheduled work week is an Essential Duty.

Any Occupation, if used in this Booklet-Certificate, means an occupation:

1. for which you are qualified by education, training or experience; and
2. that has an earning potential greater than an amount equal to the product of your Pre-disability Earnings and the Benefit Percentage.

11. The Policy provides that a Participant is to receive long term disability benefits if he or she is Totally Disabled as described in plaintiff's Allegation number ten (10) of this Complaint.

12. Plaintiff, based on medical grounds, applied for and initially received long term disability benefits beginning June 23, 2008 continuing through August 31, 2010.

13. On or about September 1, 2010, the plaintiff's Long Term Disability benefits were terminated because the defendant determined that the plaintiff no longer met the definition of disability as described in allegation number 10 of this Complaint.

14. Defendant last denied the plaintiff's appeal for Long Term Disability Benefits by decision dated June 13, 2011.

15. At the time of the June 13, 2011 termination, plaintiff was unable to perform any occupation solely because of her diseases and/or injuries.

16. Plaintiff cooperated with defendant during the pending of her claim, submitting requested proofs of loss from herself and her treating physician and all other requested documents.

17. Plaintiff is and continues to be disabled as defined by the Policy described above.

18. Pursuant to the terms of the Policy that has been and continues to be in effect, plaintiff was and is entitled to receive Long Term Disability Benefits as described by the Policy.

19. In accordance with the procedures set forth in the Policy, plaintiff has made written demand upon defendant for payment of her full benefits under the Policy.

20. Despite its requirement under the Policy to pay the plaintiff's benefits, defendant has wrongfully denied the plaintiff benefits due under the Policy.

21. Defendant's actions as above described constitute a breach by default of the terms and conditions of the Policy.

22. Plaintiff has exhausted all of her administrative needs.

WHEREFORE, the plaintiff, Angela L. Lovejoy, demands this Honorable Court enter a judgment against defendant (1) enjoining or ordering injunctive relief against the defendant from refusing, terminating, suspending, or otherwise not paying the monthly benefits and requiring defendant to pay plaintiff as contractually stipulated benefits under the Policy in monthly distributions; (2) awarding plaintiff a lump sum amount, representing unpaid benefits from the date of her disability through the date of the judgement; (3) awarding plaintiff prejudgment interest and cost of living increases; (4) awarding plaintiff her reasonable costs that she has incurred, and attorney's fees pursuant to 29 USC §1132(g)(1); (5) for such other relief as this Court deems just and proper.

WHEREFORE, plaintiff requests this Honorable Court enter judgment in her favor and against defendant.

Plaintiff by Counsel,

/s/ Edward G. Atkins
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